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1) Reply Brief

Number of Pages Including this Page:

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Inventor(s): Nabil E. Salman et al.

3)

S.N.: 09/745,702

4)

Filed: December 21, 2000

5)

Case: 8384

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/745,702
Applicant(s) : Nabil Enrique Salman, et al.
Filed : December 21, 2000
Title : Portable Packaging Device And Method For Forming
Individually Packaged Articles
TC/A.U. : 3721
Examiner : Thanh K. Truong
Conf. No. : 9701
Docket No. : 8384
Customer No. : 27752

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

This Reply Brief is filed pursuant to the Examiner's Answer from the U.S. Patent and Trademark Office dated April 29, 2005.

RESPONSE TO EXAMINER'S ANSWER

- I. Claims 1 and 6-9 have been improperly rejected under § 103(a) over Richards in view of Hamilton and Meissner.

In the Appeal Brief dated March 31, 2005, Appellant asserted that the suggested combination of documents failed to teach or suggest all of the claim elements of claim 1. In its response, the Office asserts that Richards teaches that a cutter can be provided beneath the pack location citing col. 5, lines 2-4 for support. However, even acknowledging the Office's assertion, the claimed invention is nonobvious over the

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suggested combination of documents because, as stated in the Appeal Brief, there is no motivation to combine the suggested combination of documents.

II. Claim 10 has been improperly rejected under § 103(a) over Richards in view of Hamilton and Meissner.

In the Appeal Brief, Appellant asserted that the claimed shape of the passageway, as is recited, in part, in claim 10, is not mere design choice. In response the Office states the shape of the passageway would have been an obvious matter of design choice "[s]ince the appellant has not disclosed that having the outlet opening of an oval or elliptical shape solves any stated problem or is for any particular purpose." However, the Office has disregarded the Appellant's application on the subject of the shape of the passageway.

As previously stated:

The cross-sectional shape of the passageway 25, or the shape of either or both the inlet opening 23 and outlet opening 24, can be circular, or can be preferably oval or elliptical. It has been found that an outlet opening and at least a portion of the passageway that are oval or elliptical can accommodate the human hand more readily than a circular shape.

(Application page 3, lines 31-34).

Thus, Appellant has provided evidence that the oval or elliptical shape of a portion of the passageway does indeed serve a purpose and can facilitate the movement of the human hand more easily therethrough. Consequently, Appellant argues that the shape of a portion of the passageway, as claimed, is not mere design choice.

SUMMARY

It is respectfully submitted that Claims 1 and 6-10 have not been properly rejected under 35 U.S.C. § 103. Based on the Appeal Brief submitted on March 31, 2005 and the

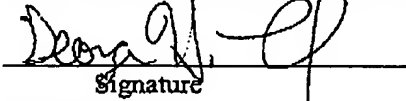
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arguments presented above, Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejections of Claims 1 and 6-10 and to remand the application with instructions that these claims be allowed over the cited documents.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY


Signature

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Date: June 29, 2005
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